

# **EXHIBIT D**

**August 31, 2018**

**Dear Mr. & Mrs. Watkins:**

**This letter is in response to your request for an explanation from Jordan School District as to why your son K█████ is not being permitted to carry syringes pre-filled with insulin at school in connection with the management of his diabetes.**

**As you know, the Office for Civil Rights has found that there was no violation of K█████'s rights in connection with this decision.**

**As you also know, extensive discussion has taken place previously regarding this issue, including in the unsuccessful confidential mediation with the OCR mediator that was held prior to the issuance of the decision by OCR.**

**To reiterate, the District's position is as follows:**

- 1. K█████'s extensive 504 plan, pursuant to which he has a 1:1 nurse assigned to provide for his diabetes care, provides reasonable and effective medical care for K█████ while he is at school and participating in school functions, including in emergency situations. K█████ has full access to District programs and has been provided with a free appropriate public education as required by Section 504.**
- 2. The District has not outright denied K█████ the ability to carry pre-filled syringes. Rather, K█████ is welcome to carry pre-filled syringes that are expressly designed for that purpose by the manufacturer, i.e, pharmaceutically labeled insulin pens. We believe this is a reasonable accommodation.**
- 3. Other pre-filled syringes cannot be carried because:**
  - a. The insulin that you wish to pre-fill the syringes with is not approved for that use; manufacturer's instructions expressly state as follows: "NOVOLOG® should not be drawn into a syringe and stored for later use." Similarly, FDA guidelines regarding Novolog also state "Novolog should not be drawn into a syringe and stored for later use." To allow syringes to be pre-filled contrary to FDA and manufacturer's recommendations is outside of industry safety standards and therefore not consistent with the standard of care.**
  - b. The syringe manufacturer (Becton Dickinson) stated in response to an inquiry about the safety of pre-filling insulin in its syringes as follows: "In response to your inquiry on storing insulin in BD syringe; it is not recommended. In addition BD does not manufacture prefilled insulin syringes." Similarly, Sanofi, another insulin manufacturer has stated: "BD does not recommend that any of our syringes be prefilled more than a few minutes in advance of the injection. There are no conclusive studies to determine the safety or risks associated with this practice."**
  - c. The District is not required to, and will not, assume the risk associated with deviations from FDA guidance and manufacturer's instructions.**
  - d. Finally, the pre-filled syringes you have requested for K█████ to carry lack the additional safety features of the approved pharmaceutically pre-filled insulin pens (and other**

syringes commonly carried at school such as Epi-Pens) and pose an unacceptable risk of injury to K [REDACTED] or other students.

We understand that you disagree with this determination that has been made by the Butterfield Canyon 504 team in conjunction with JSD nurses and administrative staff. However, District administration has been fully briefed on this matter and fully supports the team's decision.

Finally, I have enclosed the 504 grievance procedures you requested. You are welcome to make use of them at any time.

Sincerely,

Dr. Anthony Godfrey